

A Regular Meeting of the Zoning Board of Appeals of the Town of Lancaster, Erie County, New York, was held at the Lancaster Town Hall, 21 Central Avenue, Lancaster, New York, on the 8th day of May 2014, at 7:00 P.M., and there were

PRESENT: JOHN BRUSO, MEMBER
 JILL MONACELLI, MEMBER
 JAMES PERRY, MEMBER
 LAWRENCE PIGNATARO, MEMBER
 ARLIE SCHWAN, MEMBER
 ROBERT THILL, MEMBER
 RICHARD QUINN, CHAIRMAN

ABSENT: NONE

ALSO PRESENT: JOHANNA M. COLEMAN, TOWN CLERK
 KEVIN LOFTUS, DEPUTY TOWN ATTORNEY
 JEFFREY H. SIMME, CODE ENFORCEMENT OFFICER

The Affidavits of Publication and Posting of this Public Hearing are on file and a copy of the Legal Notice has been posted.

PETITION OF: YOUNG & WRIGHT ARCHITECT

THE 1st CASE CONSIDERED BY THE ZONING Board of Appeals was that of the petition of Scott's Buffalo Inn, Inc., represented by Cheryl Henry of Young & Wright Architectural, 740 Seneca Street, Buffalo, New York 14210 for four [4] variances for the purpose of constructing a hotel, and pole sign, on property owned by the petitioner at 6647 Transit Road, Lancaster, New York, to wit:

- A. A variance from the requirements of Chapter 50, Zoning, Section 19C.(3) of the Code of the Town of Lancaster. The proposed parking lot will result in a front yard set back of five [5] feet.

Chapter 50, Zoning, Section 19C.(3) of the Code of the Town of Lancaster requires a twenty-five [25] foot front yard parking lot set back. The petitioner, therefore, requests a twenty [20] foot front yard set back variance.

- B. A variance from the requirements of Chapter 50, Zoning, Section 19C.(5) of the Code of the Town of Lancaster. The overall height of the proposed hotel is fifty- eight [58] feet.

Chapter 50, Zoning, Section 19C.(5) of the Code of the Town of Lancaster limits the building height to thirty-five [35] feet. The petitioner, therefore, requests a twenty-three [23] foot height variance.

- C. A variance from the requirements of Chapter 50, Zoning, Section 30F.(2)(c)[3][b] of the Code of the Town of Lancaster. The height of the proposed pole sign is fifty-five [55] feet.

Chapter 50, Zoning, Section 30F.(2)(c)[3][b] of the Code of the Town of Lancaster limits the height of a pole sign to twenty-five [25] feet. The petitioner, therefore, requests a thirty [30] foot sign height variance.

- D. A variance from the requirements of Chapter 50, Zoning, Section 30F.(2)(c)[3][e] of the Code of the Town of Lancaster. The total face area of the proposed pole sign is one hundred thirty-eight \ [138] square feet.

Chapter 50, Zoning, Section 30F.(2)(c)[3][e] of the Code of the Town of Lancaster limits the total face area of a pole sign on the premises to sixty-four [64] square feet. The petitioner, therefore, requests a seventy-four [74] square foot variance of the total face area permitted for this proposed pole sign.

The Clerk presented and entered into evidence the following items:

Duly executed petition of the applicant with exhibits and schedules attached thereto.

Copy of a letter notifying the petitioner of the time and place of this public hearing.

Copy of a letter notifying owners of property within 100 feet of requested variance of the time and place of this public hearing.

Copy of a letter notifying the Erie County Department of Environment and Planning of the time and place of this public hearing.

Copy of a letter notifying the Town of Amherst and NYS Department of Transportation of the time and place of this public hearing.

PERSONS ADDRESSING THE BOARD

Cheryl Henry, Young & Wright Architectural Representative of Petitioner	Proponent
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IN THE MATTER OF THE PETITION OF YOUNG & WRIGHT ARCHITECT

THE FOLLOWING RESOLUTION WAS OFFERED
BY MR. THILL, WHO MOVED ITS
ADOPTION, SECONDED BY MR. PIGNATARO
TO WIT:

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has reviewed the application of Young & Wright Architect and has heard and taken testimony and evidence at a public hearing held before it at 21 Central Avenue, Lancaster, New York, on the 8th day of May 2014, and having heard all parties interested in said application pursuant to legal notice duly published and posted, and

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has made the following findings:

That this matter is properly before the Zoning Board of Appeals from a “Notice of Non Compliance” dated March 25, 2014, issued by the building and zoning department of the Town of Lancaster due to non-compliance of the building permit application and site plans to certain provisions of Chapter 50 Zoning of the Code of the Town of Lancaster.

That the petitioner is the owner of the premises and has designated Cheryl Henry of Young & Wright Architectural as their representative in this matter before the board.

That affidavits of publication and posting presented by the Clerk indicated that notice of the public hearings on this matter was duly published and posted according to law.

That property owners of record located within 100 feet of the premises on which these variances are sought were notified by first class mail of the nature of the variances sought by the petitioner and of the time and place of the scheduled hearing before the Zoning Board of Appeals on these variances.

That pursuant to section 239(m) of the General Municipal Law, the Erie County Department of Planning and other required parties, has been notified of the time and place of the scheduled public hearing on these variances.

That the Erie County Department of Planning acknowledged receipt of the notice of this hearing and commented as follows: “No Recommendation”

That the Town of Amherst Planning Director acknowledged receipt of the notice of this hearing and commented as follows: “This office has no objection to the setback for parking or height of the proposed hotel. We do believe that the sign height variance is excessive. The requested height of 55 feet far exceeds Lancaster's (and Amherst's) Zoning Ordinance limit of 25 feet. We recommend that the height variance of 55 feet not be granted in order to maintain consistency along Transit Road corridor”

That the premises upon which the variances are sought is located within the General Business District (GB) as set forth in Chapter 50 Zoning of the Code of the Town of Lancaster and that the use sought, construction of a hotel and a pole sign is a permitted use in that district.

That the Town Board of the Town of Lancaster on March 17, 2014 issued a “Negative Declaration-Determination of Non Significance” for the proposed development project upon which this variance is sought pursuant to Part 617 of the implementing regulations pertaining to Article 8 (State Environmental Quality Review Act) of the Environmental Conservation Law.

Specific Findings

That the character of the neighborhood is as follows:

The premises upon which the four (4) variances are sought for the proposed Marriott Springhill Suits Hotel is surrounded by to three (3) national chain hotels; Econo Lodge, Microtel, Motel 6, and a local high end hotel and restaurant, Russell's Grand Hotel (aka Salvatore's Grand Hotel) and Restaurant.

That the area surrounding the four (4) existing hotels is composed of national chain restaurants and a fully developed complex of a local general business retail establishments including an IMAX theater complex.

That by e-mail dated May 6, 2014 the Building Inspector of the town of Lancaster has provided to the board the character of the sign height and face are of the following hotels around the proposed subject premises:

<u>Hotel or Restaurant</u>	<u>Pole Face Area</u>	<u>Pole sign height</u>	<u>Building height</u>
Econo Lodge	134 square feet	62 feet high	
Microtel	160 square feet	50 feet high	
Motel 6	172 square feet	50 feet high	
Cracker Barrel	270 square feet	59 feet high	
Russell's (Salvatore's) Grand Hotel	no pole sign	no pole sign	60 feet

That the granting of the requested area variances for the building height, parking lot front yard set back, pole sign height and pole sign face area will provide substantial benefits to applicant without any detriments to the character of the neighborhood or the health, safety and welfare of the community.

That the benefit sought by the applicant cannot be achieved by some other method, feasible for the applicant to pursue other than the area variances sought. It would not be possible for the applicant to obtain the benefits it is seeking without the requested relief being granted by the Zoning Board of Appeals

That the granting of the requested area variances will not have any adverse effects or impacts on physical or environmental conditions in the neighborhood. The Town conducted a comprehensive coordinated environmental review of the proposed project that resulted in the issuance of a negative declaration by the Town Board on issued on March 17, 2014 The Town Board's issuance of a negative declaration was based on its determination that the project will not result in any potentially significant adverse environmental impacts.

That the area variances sought are substantial. It is noted however by the board, however, that a granting is justified by the preponderance of evidence that benefits that will be received by applicant if the area variances are granted clearly outweigh any resulting detriments per the statutorily mandated balancing test and five criteria contained in Town Law §267-b(3)(b).

That the area variances, if granted, are the minimum variances necessary to afford the relief sought.

**NOW, THEREFORE, BE IT
RESOLVED** that based upon these findings, the relief sought be and is
hereby **GRANTED**.

The question of the adoption of the foregoing resolution was duly put to a vote on roll
call which resulted as follows:

MR BRUSO	VOTED	YES
MS. MONACELLI	VOTED	YES
MR. PERRY	VOTED	YES
MR. PIGNATARO	VOTED	YES
MR. SCHWAN	VOTED	YES
MR. THILL	VOTED	YES
MR. QUINN	VOTED	YES

The resolution granting the variance was thereupon **ADOPTED**.

May 8, 2014

PETITION OF: JOHN J. LYON

THE 2nd CASE CONSIDERED BY THE ZONING Board of Appeals was that of the petition of John J. Lyon, 554 Hall Road, Lancaster, New York [Post Office, Elma, NY 14059] for two [2] variances for the purpose of constructing a 2,000 square foot accessory structure on premises owned by the petitioner at 554 Hall Road, Lancaster New York, to wit:

- A. A variance from the requirements of Chapter 50, Zoning, Section 9D.(4) of the Code of the Town of Lancaster. The area of the proposed accessory structure is 2,000 square feet.

Chapter 50, Zoning, Section 9D.(4) of the Code of the Town of Lancaster limits the area of an accessory structure to 750 square feet. The petitioner, therefore, requests a 1,250 square foot accessory use area variance.

- B. A variance from the requirements of Chapter 50, Zoning, Section 9D.(2) of the Code of the Town of Lancaster. The height of the proposed accessory structure is twenty-six [26] feet.

Chapter 50, Zoning, Section 9D.(2) of the Code of the Town of Lancaster limits the height of accessory structures to sixteen [16] feet. The petitioner, therefore, requests a ten [10] foot height variance.

The Clerk presented and entered into evidence the following items:

Duly executed petition of the applicant with exhibits and schedules attached thereto.

Copy of a letter notifying the petitioner of the time and place of this public hearing.

Copy of a letter notifying owners of property within 100 feet of requested variance of the time and place of this public hearing.

Copy of a letter notifying the Erie County Department of Environment and Planning of the time and place of this public hearing.

Copy of a letter notifying the Town of Elma of the time and place of this public hearing.

PERSONS ADDRESSING THE BOARD

John J. Lyon, Petitioner

Proponent

IN THE MATTER OF THE PETITION OF JOHN J. LYON

THE FOLLOWING RESOLUTION WAS OFFERED
BY MR. QUINN, WHO MOVED ITS
ADOPTION, SECONDED BY MR. PERRY
TO WIT:

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has reviewed the application of John J. Lyon and has heard and taken testimony and evidence at a public hearing held before it at 21 Central Avenue, Lancaster, New York, on the 8th day of May 2014, and having heard all parties interested in said application pursuant to legal notice duly published and posted, and

WHEREAS, the applicant is the present owner of the premises in question.

WHEREAS, the property for which the applicant is petitioning is within a Agricultural Residential District, (A-R) as shown on the Zoning Map of the Town of Lancaster.

WHEREAS, the Erie County Department of Environment and Planning has received a full copy of the proposed zoning action and has stated that the proposed action has been reviewed and determined to be of local concern therefore, no recommendation was made.

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has made the following findings:

That no undesirable change will be produced in the character of the neighborhood by the granting of the area variance relief sought.

That no detriment to nearby properties will be created by the granting of the area variance relief sought.

That the benefit sought by the applicant cannot be achieved by some other method, feasible for the applicant to pursue, other than the area variance relief sought.

That the requested area variance relief is substantial, but not to the extent necessary to preclude the granting of the area variance.

**NOW, THEREFORE, BE IT
RESOLVED** that based upon these findings, the relief sought be and is hereby **GRANTED** -subject to the following condition which in the opinion of this board is an appropriate condition to minimize adverse effects on the character of the surrounding area and to safeguard the public health, safety, convenience and general welfare:

- That the roof shall not be of a color which will be reflective of sunlight.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call which resulted as follows:

MR BRUSO	VOTED	YES
MS. MONACELLI	VOTED	YES
MR. PERRY	VOTED	YES
MR. PIGNATARO	VOTED	YES
MR. SCHWAN	VOTED	YES
MR. THILL	VOTED	YES
MR. QUINN	VOTED	YES

The resolution granting the variance was thereupon **ADOPTED.**

May 8, 2014

PETITION OF: TIMOTHY M. SULLIVAN

THE 3rd CASE CONSIDERED BY THE ZONING Board of Appeals was that of the petition of Timothy M. Sullivan, 46 Norris Avenue, Lancaster, New York 14086, for one [1] variance for the purpose of constructing a double dwelling on property owned by the petitioner, at 54 Avenue C, Lancaster, New York, to wit:

A variance from the requirements of Chapter 50, Zoning, Section 11C.(4)(c) of the Code of the Town of Lancaster. The proposed dwelling would result in a seventeen point five [17.5] foot rear yard set back.

Chapter 50, Zoning, Section 11C.(4)(c) of the Code of the Town of Lancaster requires a thirty [30] foot rear yard set back. The petitioner, therefore, requests a twelve point five [12.5] foot rear yard set back variance.

The Clerk presented and entered into evidence the following items:

Duly executed petition of the applicant with exhibits and schedules attached thereto.

Copy of a letter notifying the petitioner of the time and place of this public hearing.

Copy of a letter notifying owners of property within 100 feet of requested variance of the time and place of this public hearing.

PERSONS ADDRESSING THE BOARD

Timothy Sullivan, Petitioner	Proponent
Morse Burfield	Opponent
Vince Giamberdino	Opponent
Jeanette Domanowski	Opponent
Sandra Brandl	Opponent

IN THE MATTER OF THE PETITION OF TIMOTHY M. SULLIVAN

THE FOLLOWING RESOLUTION WAS OFFERED
BY MR. QUINN, WHO MOVED ITS
ADOPTION, SECONDED BY MR. PERRY
TO WIT:

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has reviewed the application of Timothy M. Sullivan and has heard and taken testimony and evidence at a public hearing held before it at 21 Central Avenue, Lancaster, New York, on the 8th day of May 2014, and having heard all parties interested in said application pursuant to legal notice duly published and posted, and

WHEREAS, the applicant is the present owner of the premises in question.

WHEREAS, the property for which the applicant is petitioning is within a Residential District 2, (R-2) as shown on the Zoning Map of the Town of Lancaster.

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has made the following findings:

That no undesirable change will be produced in the character of the neighborhood by the granting of the area variance relief sought.

That no detriment to nearby properties will be created by the granting of the area variance relief sought.

That the benefit sought by the applicant cannot be achieved by some other method, feasible for the applicant to pursue, other than the area variance relief sought.

That the requested area variance relief is substantial, but not to the extent to preclude the granting of the variance.

NOW, THEREFORE, BE IT

RESOLVED that based upon these findings, the relief sought be and is hereby **GRANTED** -subject to the following conditions which in the opinion of this board are appropriate conditions to minimize adverse effects on the character of the surrounding area and to safeguard the public health, safety, convenience and general welfare:

- That the front yard setback shall be thirty-five (35) feet from Avenue C property line to the front wall of the two (2) family structure.
- That the resulting rear yard shall be twenty-three feet, six inches (23', 6") from the rear property line.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call which resulted as follows:

MR BRUSO	VOTED	YES
MS. MONACELLI	VOTED	YES
MR. PERRY	VOTED	YES
MR. PIGNATARO	VOTED	YES
MR. SCHWAN	VOTED	NO
MR. THILL	VOTED	NO
MR. QUINN	VOTED	YES

The resolution granting the variance was thereupon **ADOPTED.**

May 8, 2014

PETITION OF: BRIAN J. SCHULTZ

THE 4th CASE CONSIDERED BY THE ZONING Board of Appeals was that of the petition of of Brian J. Schultz, 23 Tranquility Trail, Lancaster, New York 14086 for one [1] variance for the purpose of erecting a six [6] foot high fence in a required open space area on premises owned by the petitioner at 23 Tranquility Trail, Lancaster, New York, to wit:

A variance from the requirements of Chapter 50, Zoning, Section 35C. of the Code of the Town of Lancaster. The premises upon which this variance is sought is a corner lot fronting on Tranquility Trail with an exterior side yard [considered a front yard equivalent] fronting on Middlebury Lane. The petitioner proposes to erect a six [6] foot high fence within the required open space area of the exterior side yard fronting on Middlebury Lane.

Chapter 50, Zoning, Section 35C. of the Code of the Town of Lancaster limits the height of a fence or wall extending into a front yard or an exterior side yard [considered a front yard equivalent] to three [3] feet in height. The petitioner, therefore, requests a three [3] foot fence height variance.

The Clerk presented and entered into evidence the following items:

Duly executed petition of the applicant with exhibits and schedules attached thereto.

Copy of a letter notifying the petitioner of the time and place of this public hearing.

Copy of a letter notifying owners of property within 100 feet of requested variance of the time and place of this public hearing.

PERSONS ADDRESSING THE BOARD

Brian Schultz, Petitioner	Proponent
Indicates that he is amending his request by changing the fence to a four foot wrought-iron like fence.	

IN THE MATTER OF THE PETITION OF BRIAN J. SCHULTZ

THE FOLLOWING RESOLUTION WAS OFFERED
BY MS. MONACELLI, WHO MOVED ITS
ADOPTION, SECONDED BY MR. PIGNATARO
TO WIT:

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has reviewed the application of Brian J. Schultz and has heard and taken testimony and evidence at a public hearing held before it at 21 Central Avenue, Lancaster, New York, on the 8th day of May 2014, and having heard all parties interested in said application pursuant to legal notice duly published and posted, and

WHEREAS, the applicant is the present owner of the premises in question.

WHEREAS, the property for which the applicant is petitioning is within a Agricultural Residential District, (A-R) as shown on the Zoning Map of the Town of Lancaster.

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has made the following findings:

That no undesirable change will be produced in the character of the neighborhood by the granting of the area variance relief sought.

That no detriment to nearby properties will be created by the granting of the area variance relief sought.

That the benefit sought by the applicant cannot be achieved by some other method, feasible for the applicant to pursue, other than the area variance relief sought.

That the requested area variance relief is not substantial.

That the proposed area variance relief will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

NOW, THEREFORE, BE IT

RESOLVED that based upon these findings, the relief sought be and is hereby **GRANTED** -subject to the following conditions which in the opinion of this board are appropriate conditions to minimize adverse effects on the character of the surrounding area and to safeguard the public health, safety, convenience and general welfare:

- That the fence height shall be four (4) feet in height, therefore requiring a one (1) foot variance.
- That the fence shall be setback twelve (12) feet from the sidewalk along Middlebury Lane.
- That the fence shall be black aluminum, wrought-iron like in appearance.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call which resulted as follows:

MR BRUSO	VOTED	YES
MS. MONACELLI	VOTED	YES
MR. PERRY	VOTED	YES
MR. PIGNATARO	VOTED	YES
MR. SCHWAN	VOTED	YES
MR. THILL	VOTED	YES
MR. QUINN	VOTED	YES

The resolution granting the variance was thereupon **ADOPTED.**

May 8, 2014

PETITION OF: SCOTT HORVATITS

THE 5th CASE CONSIDERED BY THE ZONING Board of Appeals was that of the petition of Scott J. Horvatits, 1 Joseph Drive, Lancaster, New York 14086 for one [1] variance for the purpose of erecting a six [6] foot high fence in a required open space area on premises owned by the petitioner at 1 Joseph Drive, Lancaster, New York, to wit:

A variance from the requirements of Chapter 50, Zoning, Section 35C. of the Code of the Town of Lancaster. The premises upon which this variance is sought is a corner lot fronting on Joseph Drive with an exterior side yard [considered a front yard equivalent] fronting on Sagebrush Lane. The petitioner proposes to erect a six [6] foot high fence within the required open space area of the exterior side yard fronting on Sagebrush Lane.

Chapter 50, Zoning, Section 35C. of the Code of the Town of Lancaster limits the height of a fence or wall extending into a front yard or an exterior side yard [considered a front yard equivalent] to three [3] feet in height. The petitioner, therefore, requests a three [3] foot fence height variance.

The Clerk presented and entered into evidence the following items:

Duly executed petition of the applicant with exhibits and schedules attached thereto.

Copy of a letter notifying the petitioner of the time and place of this public hearing.

Copy of a letter notifying owners of property within 100 feet of requested variance of the time and place of this public hearing.

PERSONS ADDRESSING THE BOARD

Scott Horvatits, Petitioner	Proponent
Crystal Horvatits	Proponent

IN THE MATTER OF THE PETITION OF SCOTT HORVATITS

THE FOLLOWING RESOLUTION WAS OFFERED
BY MR. QUINN, WHO MOVED ITS
ADOPTION, SECONDED BY MR. SCHWAN
TO WIT:

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has reviewed the application of Scott Horvatits and has heard and taken testimony and evidence at a public hearing held before it at 21 Central Avenue, Lancaster, New York, on the 8th day of May 2014, and having heard all parties interested in said application pursuant to legal notice duly published and posted, and

WHEREAS, the applicant is the present owner of the premises in question.

WHEREAS, the property for which the applicant is petitioning is within a Residential District 1, (R-1) as shown on the Zoning Map of the Town of Lancaster.

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has made the following findings:

That no undesirable change will be produced in the character of the neighborhood by the granting of the area variance relief sought.

That no detriment to nearby properties will be created by the granting of the area variance relief sought.

That the benefit sought by the applicant cannot be achieved by some other method, feasible for the applicant to pursue, other than the area variance relief sought.

That the requested area variance relief is substantial, but not to the extent necessary to preclude the granting of the area variance.

That the proposed area variance relief will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

That the alleged difficulty is self created but not to the extent necessary to preclude the granting of the area variance relief sought.

**NOW, THEREFORE, BE IT
RESOLVED** that based upon these findings, the relief sought be and is hereby **GRANTED** -subject to the following condition which in the opinion of this board is an appropriate condition to minimize adverse effects on the character of the surrounding area and to safeguard the public health, safety, convenience and general welfare:

- That the fence shall be set back twelve (12) feet from the sidewalk along Sagebrush Lane.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call which resulted as follows:

MR BRUSO	VOTED	NO
MS. MONACELLI	VOTED	YES
MR. PERRY	VOTED	YES
MR. PIGNATARO	VOTED	YES
MR. SCHWAN	VOTED	YES
MR. THILL	VOTED	YES
MR. QUINN	VOTED	YES

The resolution granting the variance was thereupon **ADOPTED**.

May 8, 2014

ON MOTION DULY MADE, SECONDED AND CARRIED, the meeting was adjourned at 8:52 P.M.

Signed _____
Johanna M. Coleman, Town Clerk and
Clerk, Zoning Board of Appeals
Dated: May 8, 2014